

## REMARKS

This Paper is submitted in response to the final Office Action dated January 25, 2007 having a shortened statutory response period ending on April 25, 2007. This Paper is filed within two months of the Office Action mail date as March 25, 2007 was a Sunday. The Commissioner is hereby authorized to charge any additional fees to Deposit Account number 02-1818.

Claims 1-2, 4-13, 15-16, 18-20, 22, 24-26, and 28-37 are currently pending in this application. Claims 3, 14, 17, 21, 23, and 27 have been canceled.

Attorney for Applicants would like to thank Examiner Haider and Examiner Seidleck for the courtesies extended during a telephone Interview on March 20, 2007.

Applicants respectfully request that this Paper be entered as it 1) places the claims in a condition for allowance, and 2) requires only a cursory review by the Examiner.

Claims 20, 22, 24-26, and 28-37 were rejected under 35 U.S.C. §112 1<sup>st</sup> paragraph as the term "outermost" was allegedly not supported in the specification. In view of the telephone Interview on March 20, 2007, it was agreed that the term "outermost" in independent claim 20 is adequately supported by the specification. *See* Applicants' Interview Summary at ¶1. Applicants respectfully request that the §112 rejections with respect to the term "outermost" be withdrawn.

Claims 1-2, 4-13, 15-16, 18-20, 22, 24-26, and 28-37 were rejected under 35 U.S.C. §112 1<sup>st</sup> and 2<sup>nd</sup> paragraphs as the term "solution contact" was alleged to be indefinite and not supported by the specification. In view of the telephone Interview on March 20, 2007, it was agreed that the term "solution contact" in independent claims 1, and 20 1) is definite, 2) is adequately supported by the specification, and 3) is not a product-by-process limitation. *See* Applicants' Interview Summary at ¶¶ 2-3. Applicants further submit that one of ordinary skill in the art would recognize that the present port tube and the present membrane tube each have a solution contact layer in view of U.S. Patent No. 6,361,843 which discloses tubing having a solution contact layer. Applicants respectfully request that the §112 rejections with respect to the term "solution contact" be withdrawn.

Claims 1-2, 4-13, 15-16, 18-19, and 34-35 were rejected under 35 U.S.C. § 103(a) for allegedly being obvious over U.S. Patent No. 5,356,709 to Woo et al. (*Woo*) in view of U.S. Patent No. 5,849,843 to Laurin et al. (*Laurin*). Claims 20, 22, 24-26, 28-33, and 36-37 were

rejected under 35 U.S.C. §103(a) for allegedly being obvious over *Woo* in view of *Laurin* and in further view of U.S. Patent No. 6,127,009 to *Strassmann* (*Strassmann*). Applicants respectfully disagree with and traverse these alleged rejections for the reasons set forth below.

1. *The prior art does not disclose a multiple layered tubing with an outermost layer in contact with a solution contact layer as recited in claim 1*

*Woo Laurin*, and *Strassmann*, either alone or in combination, fail to teach or suggest a multiple layer non-PVC tubing having an outermost layer in contact with a solution contact layer as recited in independent claims 1. *Woo* discloses a three layer tubing having an outer layer 12, a tie layer 14, and a core layer 16. *Woo* col. 3 lines 38-49, Figure 1. *Woo*'s tie layer 14 is sandwiched between the outer layer 12 and the core layer 16. Consequently, *Woo*'s outer layer 12 contacts the tie layer 14 and does not contact the core layer 16.

*Laurin* fails to fulfill the deficiencies of *Woo*. *Laurin* has no disclosure whatsoever directed to a multiple layer tubing. *Laurin* merely discloses three-component and four-component polymeric blends. *Laurin*, col. 4 lines 60-65. Void of any disclosure regarding multiple layer structures, *Laurin* simply cannot disclose or suggest a multiple layer tubing having the explicit layer structure (outermost layer-contacting-solution contact layer) recited in the present claims.

Even assuming *arguendo* that *Laurin* is combinable with *Woo* (which it is not as *Laurin* has no disclosure regarding layered structures) as the Examiner suggests, such a combination would fail to disclose or suggest a multiple layered structure with an outermost layer contacting a solution contact layer as recited in the present claims. The Examiner contends that it would have been obvious to form the outer layer of *Woo* with the polymeric blends of *Laurin*. See Office Action dated January 25, 2006 at ¶30. However, this proposed combination still results in the three layer structure of *Woo*, namely, the outer/tie/core layer structure whereby the outer layer contacts the tie layer. Accordingly, even if *Laurin* were combinable with *Woo*, this combination would fail to disclose or suggest a multiple layer structure having an outermost layer contacting a solution contact layer as recited in independent claim 1.

*Strassmann* fails to disclose or suggest a multiple layer tubing having a solution contact layer as recited in the present claims. *Strassmann* discloses a joining part having an outer layer

10 and an inner layer 30. Inner layer 30 is bonded to a polycarbonate part 20, the polycarbonate part 20 being the solution contact part. *Strassmann*, col. 5 lines 49-60, Figures 1-2. The outer layer 10 contacts the inner layer 30 and does not contact the solution contact part (*i.e.*, the polycarbonate part 20). Therefore, *Strassmann* fails to disclose or suggest a multiple layer tubing having an outermost layer that contacts a solution contact layer as recited in the present claims.

2. *The prior art does not disclose a multiple layered tubing with an outermost layer as recited in claim 20*

No combination of *Woo*, *Laurin* and/or *Strassmann* discloses or suggests a multiple layer tubing having a solution contact layer and an outermost layer of a five-component blend which includes 1) a first thermoplastic elastomer, and 2) a polyester polyether block copolymer, 3) ethylene vinyl ester copolymer, 4) propylene, and 5) a component from the Markush group as recited in claim 20. *Woo*'s outermost layer contains no polyester polyether block copolymer. *Laurin* and *Strassmann* each individually completely lack any disclosure whatsoever regarding a polyester polyether block copolymer. Consequently, no combination of *Woo*, *Laurin*, and *Strassmann* discloses or suggests a multiple layer tubing having an outermost layer that contains polyester polyether block copolymer as recited in independent claim 20 and the claims depending therefrom.

In view of the foregoing remarks, Applicants submit that claims 1-2, 4-13, 15-16, 18-22, 24-26, and 28-37 are in a condition for allowance and respectfully request notice of the same.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY



Ted J. Barthel

Reg. No. 48,769

Customer No. 29200

Dated: March 26, 2007